

GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Health, Medical & Family Welfare Department- Dr.Sumitha Arjundas Jagaisi, Assistant Professor – Orders treating the period from the date of termination as Civil Assistant Surgeon to the date of appointment as Asst Professor as Extra Ordinary Leave orders - Rescinded - Orders - Issued.

HEALTH, MEDICAL AND FAMILY WELFARE (VC.III.1) DEPARTMENT

G.O.Ms. No.198

Dated:25.08.2012

Read the following:-

1. From the Director of Health, Hyderabad Proc.Rc.No.23474/E8C/1998, Dt.14/04/1999
2. From the Commissioner, A.P.Vaidya Vidhana Parishad, Hyderabad Proc.ds Rc.No.R2/3611/2000, dt.15.12.2000
3. From the Director of Health, Hyderabad, Proc.ds Rc.No.5014/E2H/2001, dt.17.01.2001
4. Govt.Lr.No.4082/VC.III.1/06-5, HM & FW (VC.III.1) Dept., Dt.25-09-2006
5. From Director of Medical Education, A.P., Hyderabad, Procd.s No.31094/E.11B/2007, dt. 24.04.2007.
6. Govt.Memo No.3478/VC.iii(1)/2009 dated 5.3.2009.
7. From Sri P.V.Krishnaiah, Advocate Lr.dt. 03.07.2009.
8. From the Commissioner of A.P.Vaidya Vidhana Parishad, Hyderabad Lr. No.8360/VC.C/2009, dt. 16.02.2010
9. G.O.Rt.No.334 HM&FW(VC.III.1)Dept. Dt.15.03.2010.
10. From the DPH, Lr.Rc.No.5014/VC.III.B/2001, dt. 13.07.2010.
11. From A.P.A.T. orders dt. 7.06.2012 in C.A.No.1358/2011 in O.A. No.8409/2010 with VMA 964/2011

ORDER:

Whereas, Dr.Sumitha Arjundas Jagaisi was appointed through proceedings first read above as Civil Assistant Surgeon and reported to duty on 14.04.1999. She worked for fifteen (15) days only and thereafter absented herself from duty unauthorizedly from 30.04.1999 onwards. A Show Cause Notice was issued in the letter 2nd read above to all unauthorized absentees, including Dr.Sumitha Arjundas Jagaisi, directing them to report for duty failing which their services would be terminated and the same was published in Eenadu daily on 21.12.2000 and Hindu daily on 23.12.2000, giving fifteen (15) days time to report for duty from the date of its publication. Neither explanation was received from the individual nor reported for duty within the stipulated period. Therefore, the appointing authority, Director of Public Health, had terminated the services of individual w.e.f. 30-4-1999 in the proceedings 3rd read above;

2. And whereas, later, Dr.Sumitha Arjundas Jagaisi was appointed on contract basis by the District Medical and Health Officer, Guntur on 01.01.2003, as Civil Assistant Surgeon afresh. The period of her contract service was extended for one more year from 01.01.2004. Dr.Sumitha Arjundas Jagaisi has filed representation for her reinstatement into service through Commissioner of Andhra Pradesh Vidya Vidhana Parishad, Hyderabad in the year 2006 after a lapse of seven years. Government have examined the same, and rejected her request vide letter 4th read above, as the service of the individual were already terminated;

3. And whereas, in the year 2007, a notification was issued for recruitment of Assistant Professor. In pursuance of said notification, and after going through process of selection Dr.Sumitha Arjundas Jagaisi was appointed afresh as Assistant Professor on 01.05.2007 vide proceedings 5th read above;

4. And whereas, Dr.Sumitha Arjundas Jagaisi filed another representation on 19-02-2009 for condoning the period of absence from 30.4.1999 to 01.05.2007, and to treat the period as Extra Ordinary Leave for the service benefits. Government have examined her representation and rejected her request again vide Govt. memo 6th read above;

5. And whereas, Dr.Sumitha Arjundas Jagaisi has filed another representation in the letter 7th read above through her counsel. The Government have called for the remarks of the Commissioner of Andhra Pradesh Vaidya Vidhana Parishad, Hyderabad. In reply the Commissioner of Andhra Pradesh Vaidya Vidhana Parishad, Hyderabad in the letter 8th read above has stated that there are similar precedents as claimed by the candidate and requested for favourable consideration on sympathetic grounds;

6. And whereas, the Government having considered the representation of individual issued orders in the G.O. 9th read above treating the period from the date of termination of services from 30.04.1999 as Civil Assistant Surgeon to the date of her afresh appointment as Assistant Professor in 2007 as Extra Ordinary Leave without monetary benefits;

7. And whereas, in the letter 10th read above the Director of Public Health, Hyderabad has brought to the notice of the Government that the orders issued in G.O.Rt.No.334, H.M.&.F.W.(VC.III.1)Deptt. Dt.15.03.2010 likely to have far reaching legal complications and is likely to establish a bad precedent, and requested for further orders;

8. And whereas, Dr.Sumitha Arjundas Jagaisi, Assistant Professor of Plastic Surgery, Osmania General Hospital, Hyderabad has filed O.A. No.8409/2010 in A.P.A.T. for implementation of G.O.Rt.No.334 H.M.&.F.W. (VC.III.1)Dept. Dt.15.03.2010 and the A.P.A.T. in its interim orders dt. 01.12.2010 passed orders as follows:-

“Pending disposal of the O.A., there shall be a direction to the 2nd (Director of Medical Education, A.P., Hyderabad) and 3rd (Commissioner, Andhra Pradesh Vaidya Vidhana Parishad) respondents to forthwith implement G.O.Rt.No.334, Health, Medical & Family Welfare (VC.III.1) Department dated 15.03.2010 issued by the 1st respondent” (Govt.)”.

9. And whereas, the Hon'ble A.P.A.T. in its orders dt. 07.06.2012 in C.A.No.1358/2011 in O.A. No.8409/2010 filed by Dr.Sumita Shankar, Assistant Professor of Plastic Surgery, OGH, Hyderabad has passed the following order:-

“ I am of the view that there is no willful disobedience on the part of the respondents and the matter will be thrashed once for all in the main O.A., after hearing both parties. I do not find any grounds to punish the respondents at this stage. Hence the V.M.A. is allowed by vacating the interim order dt. 01.12.2010. The C.A. is accordingly closed ”.

10. And whereas, the Government have reviewed the entire matter in detail, keeping in view of the report of Director of Public Health, and has observed the following: that the services of Dr.Sumitha Arjundas Jagaisi were terminated on 30.04.1999 while she was working as Civil Assistant Surgeon under Andhra Pradesh Vaidya Vidhan Parishad while she was on still probation. Dr.Sumitha Arjundas Jagaisi had not attended to her duties even for a month after joining the Government service. As per Rule 17 of Andhra Pradesh State and Subordinate Service Rules, 1996 a probationer may be discharged from service on account of unsatisfactory performance or unsatisfactory conduct or for any other sufficient reason to be recorded in writing. A terminated employee will have no right on his/her past service. Subsequently she was appointed denovo after eight (8) years as Assistant Professor in 2007 as direct recruitee in the Directorate of Medical Education. Dr.Sumitha Arjundas Jagaisi was not in the service of the Government between 30.04.1999 and 01.05.2007. Moreover, Andhra Pradesh Vaidya Vidhana Parishad is an autonomous unit of the Medical and Health Department, which is guided by a set of rules and regulations.

11. And whereas, the Government have reached a conclusion based on material facts that it would be a travesty of justice to treat the period during which Dr.Sumitha Arjundas Jagaisi was not in Govt. service as 'on duty'. Therefore, it has been considered that the orders issued in the G.O. 9th read above are not in accordance with the rules and has therefore decided to rescind the said orders;

12. Now, therefore under Section 15 of the Andhra Pradesh General Clauses Act, 1891 (Act 1 of 1891) the Government, hereby rescind the orders issued in G.O.Rt.No.334, HM&FW(VC.III.1)Dept. Dt.15.03.2010 for treating the period from 30.04.1999 i.e., from the date of termination as Civil Assistant Surgeon to the date of appointment as Assistant Professor as Extra Ordinary Leave.

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13. The Commissioner of Andhra Pradesh Vaidya Vidhana Parishad, Hyderabad / Director of Medical Education, Hyderabad/Director of Public Health, Hyderabad, shall take necessary further action accordingly.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

J.C.SHARMA
PRINCIPAL SECRETARY TO GOVERNMENT (FAC)

To

Dr.Sumita Arjandas Jagaisi, Assistant Professor.

(through the Director of Medical Education, Hyderabad).

The Commissioner, A.P.Vaidya Vidhana Parishad, Hyderabad.

The Director of Medical Education, A.P., Hyderabad.

The Director of Public Health and Family Welfare, A.P., Hyderabad.

Copy to:-

The Government Pleader, Andhra Pradesh Administrative Tribunal, Hyderabad.

The Law (E) Department.

// FORWARDED :: BY ORDER //

SECTION OFFICER

